

Nirav R. Shah, M.D., M.P.H.
Commissioner

NEW YORK
state department of
HEALTH

Sue Kelly
Executive Deputy Commissioner

October 28, 2011

Subject: Home Care Worker Wage Parity FAQ

Dear Administrator:

This letter has been developed in response to questions received regarding DAL #: DHCBS 11-09, Home Care Worker Wage Parity. Attached is a frequently asked questions (FAQs) document.

Also included is a copy of a certification form for use by subcontractors of certified home health agencies (CHHAs), long term home health care programs (LTHHCPs) and managed care organizations (MCOs) within New York City and the counties of Nassau, Suffolk and Westchester. Guidance for submitting the required certification outlined in the Home Care Worker Parity DAL # DHCBS 11-09 is available on the Department's website at: http://www.health.ny.gov/facilities/long_term_care/dal_dhcbs_11-09_hc_worker_wage_parity.htm

If you have any questions regarding the information, please e-mail to the following address: HCWorkerParity@health.state.ny.us.

Sincerely,

/JAH/

Jason A. Helgeson
Medicaid Director
Deputy Commissioner
Office of Health Insurance Programs

Enclosure

cc: Vallencia Lloyd
Mark Kissinger

LICENSED HOME CARE SERVICES AGENCY
Certification of Compliance with Home Care Worker Wage Parity

I hereby certify that services provided by my organization for the period March 1, 2012 and subsequent are in full compliance with the terms of subdivision c of section 3614 of the Public Health Law, Home Care Worker Wage Parity and any regulations promulgated pursuant to this provision of Law.

In addition, I will provide the CHHA/LTHHCP/MCO, on a quarterly basis, all information to verify my compliance with the terms of this section (including this certification), that I will maintain all such information for a period of no less than ten years from the end of the applicable calendar year and that such information shall be made available to the Department upon request.

Name of Organization _____

License No. (if applicable) _____

Signature _____

Name (Please Print) _____

Title (Please Print) _____

Does your organization currently have a collective bargaining agreement (CBA) that covers home care aides? Yes/No

Please note that in accordance with Parts 86-1.2 of Title 10 of the Commissioner's Administrative Rules and Regulation, only the following individuals may sign the certification form:

Proprietary Sponsorship – Operator/ Owner

Voluntary Sponsorship – Officer (President, Vice President Secretary or Treasurer), Chief Executive Officer, Chief Financial Officer or any Member of the Board of Directors

Public Sponsorship – Public Official Responsible for the Operation of the Facility.

Home Care Worker Wage Parity Frequently Asked Questions (FAQs)

These FAQs respond to questions that are not addressed in other Home Care Worker Wage Parity materials posted on the HCS, such as Dear Administrator Letters (DALs). Please consult these materials in conjunction with the following FAQs.

General Questions

Q1. Where do we send the list of subcontractors?

A1. The list of subcontractors should be submitted to the Department via email to HCWorkerParity@health.state.ny.us, with Home Care Worker Parity indicated in the subject line.

Q2. Where do we send copies of the certifications required by DOH and attached to DAL #: DHCBS 11-09?

A2. The certifications required by CHHAs, LTHHCPs and MCOs should be submitted to the Department via email to HCWorkerParity@health.state.ny.us, with Home Care Worker Parity indicated in the subject line.

Q3. Which attestation form will LHCSAs use if they are under contract with a CHHA, LTHHCP or MCO?

A3. The Department created a form that is attached to this document for CHHAs, LTHHCPs and MCOs to provide to LHCSAs with which they contract. CHHAs, LTHHCPs and MCOs can also create their own form as long as it includes the same critical elements captured in the attached document. However, additional requirements may be added to meet the needs of your agency.

Q4. What is a CBA?

A4. CBA means Collective Bargaining Agreement.

Q5. Is it necessary to verify compliance for agencies under collective bargaining agreements since the collective bargaining organization monitors compliance of their contracts and benefits?

A5. Yes. Compliance must be verified for all agencies under contract.

Q6. When does the local living wage law prevail over the terms indicated in the State statute in regards to collective bargaining agreements?

A6. Local collective bargaining agreements effective January 1, 2011, or a successor agreement, will supersede the local living wage law if the minimum rate for home care aide compensation established by the Department for districts is less than the existing CBA.

Q7. What does the Total Compensation calculation include? Is it just base wage plus health supplement or is it more than that?

A7. Total Compensation will be calculated based on the statute which indicates total compensation **“means all wages and other direct compensation paid to or provided on behalf of the employee including, but not limited to, wages, health, education or pension benefits, supplements in lieu of benefits and compensated time off, except that it does not include employer taxes or employer portion of payments for statutory benefits, including but not limited to FICA, disability insurance, unemployment insurance and workers' compensation.”**

Q8. Which counties are subjected to this change in the living wage law?

A8. Please see the Home Care Worker Wage Parity DAL which indicates that section 3614-c of PHL applies to those working “within New York City and within the counties of Nassau, Suffolk and Westchester.”

Q9. If a case is reimbursed completely by Medicare or is a private paid case, does this rule apply?

A9. As indicated in the Home Care Worker Wage Parity DAL, the home care worker wage parity law only applies to Medicaid reimbursed cases.

Q10. Are the Assisted Living Programs (ALPs) affected by this law?

A10. No. This law does not apply to ALPs.

Q11. What is the best way to stay current on the home care worker parity issue?

A11. Through the Health Commerce System (HCS).